

## PRE-PROPOSAL CONFERENCE

**RFP2000001937**

**Program Management Consulting Services  
For the Route 1 Bus Rapid Transit (BRT) System**

A mandatory pre-proposal conference will be held on Wednesday, May 25, 2016, at 10:00 a.m. local time at the offices of the Fairfax County Department of Transportation (FCDOT), 4050 Legato Road, Suite 400, Fairfax, Virginia. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

Due to the importance of all offerors having a clear understanding of the specifications/scope of work and requirements of this solicitation, attendance at this conference will be a prerequisite for submitting a proposal. Proposals will only be accepted from those offerors who are represented at this Pre-Proposal conference. Attendance at the conference will be evidenced by the representative's signature on the attendance roster. Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation. Due to limited space, it is requested that no more than four (4) representatives from each Team attend the Pre-Proposal Conference.

All questions pertaining to this RFP shall be submitted in writing to the point of Contact (POC), George Bright at [george.bright@fairfaxcounty.gov](mailto:george.bright@fairfaxcounty.gov) prior to the pre-proposal conference.



# FAIRFAX COUNTY

## DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT

12000 GOVERNMENT CENTER PARKWAY, SUITE 427

FAIRFAX, VIRGINIA 22035-0013

www.fairfaxcounty.gov/dpsm

# VIRGINIA

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| <b>ISSUE DATE:</b><br>May 3, 2016             | <b>REQUEST FOR PROPOSAL NUMBER:</b><br>RFP2000001937       | <b>TITLE:</b> Consulting Services for Route 1 Bus Rapid Transit System                               |
| <b>DEPARTMENT:</b><br>Dept. of Transportation | <b>DUE DATE/TIME:</b><br>June 17, 2016, 4 P.M., Local Time | <b>CONTRACT SPECIALIST :</b> George Bright, CPPB,<br>703-324-3215 or george.bright@fairfaxcounty.gov |

**Proposals** - In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by Fairfax County the items or services offered and accompanying attachments shall constitute a contract.

**Note:** Fairfax County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

### NAME AND ADDRESS OF FIRM:

Telephone/Fax No.:

E-Mail Address:

Federal Employer Identification No or

Federal Social Security No.(Sole  
Proprietor)

Prompt Payment Discount:

\_\_\_% for payment within \_\_\_days/net  
\_\_\_days

State Corporation Commission (SCC)  
Identification No.

**By signing this proposal, Offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in the General Conditions and Instructions to Bidders as described in Appendix A, the Certification Regarding Ethics in Public Contracting set forth in Appendix C, and by any other relevant certifications set forth in Appendix C.**

### BUSINESS CLASSIFICATION – Described in Appendix B – CHECK ONE:

- ☐ MICRO    ☐ SMALL    ☐ MINORITY-OWNED    ☐ WOMEN-OWNED    ☐ VETERAN OWNED  
☐ EMPLOYMENT SERVICE ORG    ☐ NON PROFIT    ☐ GOVERNMENT/PUBLIC BODY

State in which Incorporated: \_\_\_\_\_

CHECK ONE:   ☐ INDIVIDUAL    ☐ PARTNERSHIP    ☐ CORPORATION

Vendor Legally Authorized Signature

Date

Print Name

Title

Sealed proposals subject to terms and conditions of this Request for Proposal will be received by the Fairfax County Purchasing Agent at 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013 until the date/time specified above.

AN EQUAL OPPORTUNITY PURCHASING ORGANIZATION



## SPECIAL PROVISIONS

### 1. SCOPE OF SERVICES:

- 1.1. The County of Fairfax, Virginia is soliciting Proposals from professional engineering firms to provide program management assistance of a **Bus Rapid Transit (BRT) System**. Fairfax County will award one Program Management Consultant (PMC) team a contract for various BRT services, which are described more fully in Paragraph 1.2 below. The estimated total value of the contract, including all contract renewals, is estimated to be in excess of \$25,000,000. Task orders will be issued and negotiated for individual assignments as needed. It is envisioned that the initial task order(s) will be established immediately following execution of the contract. Details involving specific work tasks, deliverables, schedules, payment methods and other administrative items will be incorporated in each task order assignment.
  
- 1.2. The overall scope of services to be performed by the PMC team is to assist the County in defining and completing the numerous and varied activities that must be accomplished in order to implement a BRT system along Route 1. All activities shall be accomplished in compliance with all local, state and federal regulations associated with obtaining federal funding for a portion of the total cost of the project. These activities include, but are not limited to the following
  - a. Development of Program Implementation Plan and timeline;
  - b. Development of Project Delivery Strategy and Contracting Plan;
  - c. Development of Best Practice Policy Guidance document;
  - d. Development of station, vehicle and guideway design criteria;
  - e. Development of service "branding;"
  - f. Development of Quality Assurance/Quality Control procedures and oversight to include oversight and review of engineering, environmental, and/or construction documents prepared by third parties;
  - g. Development of Risk Management Analyses, monitoring, and consultation;
  - h. Development of a Public Outreach Plan, which should include an innovative Public Outreach Plan/Involvement that takes advantage of social media and networks to reach Title VI and hard to engage populations;
  - i. Development of a financial implementation program including; grant writing support and assistance ; and advising and monitoring the financial plan;
  - j. Identification of a range of vehicle types and propulsion systems, system infrastructure and vehicle acquisition support, including technology;
  - k. Development of a project delivery procurement strategy and documentation;
  - l. Development of RFPs for environmental, engineering design, and other contracts to comply with the federal New Starts and other required processes;
  - m. Development of scopes of work for various environmental, design and other contracts
  - n. Development of preliminary and/or final engineering plans;
  - o. Development of environmental documentation as required by NEPA;
  - p. Right-of-Way Acquisition review/oversight;
  - q. 3rd Party coordination;
  - r. Federal Transit Administration coordination and reporting.
  
- 1.3. Under the initial term(s) of the contract, the PMC shall provide services and/or assist the County in development of engineering criteria, designs and details; complete environmental permitting, develop program schedules and financial planning in sufficient detail to pursue funding opportunities for the final design and construction of the first two phases of the BRT system (as outlined in the DRPT study) from the Huntington Metrorail Station to Fort Belvoir, to include management and implementation of the final design, construction, equipment procurement, maintenance and operations of Phases I and/or II. In addition, the PMC may also be requested to perform similar activities for Phase III of the project which would extend the Route 1 BRT southward to Woodbridge.

## SPECIAL PROVISIONS

- 1.4. Above all, the County expects consultant teams / firms to identify the individual activities that must be accomplished in accordance with state and federal requirements, to assist in procuring the necessary expertise to complete these tasks and to assist in reviewing progress and products associated with these activities. The County further encourages consultant teams/firms to propose alternative, innovative approaches for implementing BRT service that would produce superior results.

### **2. PRE-PROPOSAL CONFERENCE:**

- 2.1. A mandatory pre-proposal conference will be held on **Wednesday, May 25, at 10 A.M.**, local time, in the offices of the Fairfax County Department of Transportation (FCDOT), 4050 Legato Road, Suite 400, Fairfax, Virginia. To request reasonable ADA accommodations, call the Department of Purchasing and Supply Management ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven working days in advance of the event to make the necessary arrangements.
- 2.2. The purpose of the pre-proposal conference is to give potential offerors an opportunity to ask questions and to obtain clarification about any aspect of this Request for Proposal. Offerors may submit any questions pertaining to the RFP, in writing, prior to the pre-proposal conference to George Bright, Contract Specialist Supervisor at [George.bright@fairfaxcounty.gov](mailto:George.bright@fairfaxcounty.gov).

### **3. CONTRACT PERIOD AND RENEWAL:**

- 3.1. The initial contract term shall be for three (3) years and may be renewed for up to four (4) additional three-year terms at the county's option, subject to satisfactory and demonstrated performance of the PMC Team.
- 3.2. The obligation of the County to pay compensation due the contractor under the contract or any other payment obligations under any contract awarded pursuant to this Request for Proposal is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice shall not extend the contract into a fiscal year in which sufficient funds have not been appropriated.

### **4. BACKGROUND:**

- 4.1. Numerous planning and transportation studies have been completed for the Richmond Highway/Route 1 corridor within the Mount Vernon District and Lee District in Fairfax County. The two foundational transportation studies for the current multimodal effort are the Virginia Department of Transportation (VDOT) Route 1 Centerline Study (1998-2004) and the Virginia Department of Rail and Public Transportation (DRPT) Route 1 Multi Modal Alternatives Analysis (2015). The Route 1 Multimodal Alternatives Analysis addresses multiple transportation modes and provides a clear path forward to improve mobility and enhance development in the corridor. The study evaluated the benefits, costs, and impacts of implementing multimodal improvements along a 15-mile segment of Richmond Highway/Route 1, extending from the I-95/I-495 Beltway area, through Fairfax County to the Virginia Railway Express (VRE) Station at Woodbridge in Prince William County. The study was led by the DRPT in collaboration with Fairfax County, Prince William County, VDOT and the Virginia Office of Intermodal Planning and Investment. The study began in June 2013, and was completed in January 2015.

### **SPECIAL PROVISIONS**

- 4.2. At the conclusion of the study, the project team recommended and the Executive Steering Committee (ESC) endorsed Alternative 4, calling for a median-running Bus Rapid Transit (BRT) system to be advanced in a phased implementation approach. As described in the DRPT study, Phase I encompasses BRT from the Huntington Metrorail Station to Hybla Valley; Phase II extends BRT from Hybla Valley to Fort Belvoir; Phase III extends BRT from Fort Belvoir to Woodbridge; and Phase IV encompasses the extension of the Metrorail Yellow Line from the Huntington Metrorail Station to Hybla Valley. The study results show that Phases I and II are potentially competitive for New Starts funding from the Federal Transit Administration (FTA).
- 4.3. Route 1 is currently being widened from four lanes to six-lanes from Telegraph Road through Fort Belvoir, to its southern intersection with Mount Vernon Memorial Highway (Route 235) / Jeff Todd Way. The project includes a multi-purpose trail, pedestrian sidewalk, on-road bicycle accommodations and reservation of a roadway median for future transit investments. The next segment of Route 1 scheduled for improvement is the segment immediately to the north, from Route 235 to Napper Road. This project is being administered by VDOT, which has been working to initiate environmental documentation and preliminary design for this section of Route 1. The project would also include pedestrian and bicycle facilities and provisions for current and future transit. The road widening project will be implemented in advance of the planned BRT project.
- 4.4. The Fairfax County Board of Supervisors endorsed the recommendation from the ESC on May 12, 2015, authorizing a Comprehensive Plan amendment to assess and refine the recommendation, considering station locations, land use density and mix at station locations, corridor-wide transportation mitigation, and providing policy guidance supporting the extension of Metrorail to Hybla Valley. The Board also directed staff to proceed with preparing a NEPA document for the BRT and the roadway widening between Route 235 and Napper Road. This action of the Board directs staff to begin implementation of Phases I and II of the BRT project
- 4.5. The County is moving ahead with a Comprehensive Plan Amendment and will expedite the project to the maximum extent possible. This activity will be led by the Fairfax County Department of Planning and Zoning with support from FCDOT staff, the Office of Community Revitalization (OCR) and other agencies. Key elements to be developed are: policy guidance supportive of BRT and its possible expansion to future rail; goals and objectives supportive of a multimodal environment; development of urban design guidelines; general station locations; bicycle and pedestrian accessibility; as well as streetscape widths; refined land uses and mix in station areas.
- 4.6. The Capital Projects and Traffic Engineering Division within the Department of Transportation has been tasked with oversight of the BRT project, including implementation, design and engineering of the system, potentially including Transit Signal Priority (TSP) infrastructure. As with the existing County transit system, the BRT System may be operated and maintained by a third party contractor procured by the County. However, the County is also considering a design, build, operate and maintain procurement so that a third party contractor may be on board at the beginning of the project rather than at completion of construction. This contract will initially be funded via local means. However, various other funding sources including State and/or Federal funds are anticipated to be appropriated to fund various assignments or tasks as the program progresses. .

### **5. CONTENTS OF PROPOSAL (General):**

- 5.1. The RFP Phase of this Procurement process is intended to enable interested firms to demonstrate their qualifications to perform work on the Route 1 BRT Project, and to enable FCDOT to evaluate those qualifications. Interested firms are advised that the RFP response should include specific information that will demonstrate the qualifications and experience required by this RFP.

### **SPECIAL PROVISIONS**

- 5.2. Proposals shall be prepared on 8.5"x11" white paper, double sided, except where noted below, and separated by numbered/labeled tabs. The tabs shall not count against any page limits noted herein, provided no project specific information is included on them. All printing, except for the front cover of the Proposal shall be typed with a 12-point font.
- 5.3. All Proposals shall be securely bound and contained in a single volume. **Three Ring Binders are not permissible.** One of the copies submitted shall be clearly marked "Original" in the upper right hand corner of the front cover.
- 5.4. The length of the Proposal shall be as noted further in this RFP. FCDOT will remove and discard all pages in excess of the stipulated page limit(s) noted herein.
- 5.5. **Letter of Submittal:** Proposals shall include a letter of submittal, single sided, on the primary firm's letter head and identify the full legal name and address of the firm. The firm is defined as the legal entity who will execute the contract with the County. The letter of submittal shall be signed by an authorized representative of the primary firm's organization. All signatures on the Letter of Submittal shall be original and signed in ink. The letter of submittal shall identify the name, address and telephone number of the individual who will serve as the principal officer and/or point of contact.
- 5.6. **GSA FORM SF-330 PARTS I & II:** Each Offeror responding to this Request for Proposal must supply all the documentation required in the RFP.
  - Part I.A - GSA Form SF 330 Parts I & II are required from the prime consultant.
  - Part I.B - GSA Form SF 330 Part II is required from all subconsultants
  - Part I.C - Include all firms that are part of the proposed team and indicate roles and responsibilities of each team member. Clearly indicate which firm is the prime.
  - Part I.D - Include an organizational chart of the proposed team. Only include key personnel for each type or specialty service to be provided under the contract. The organizational chart may be multiple pages, single sided.
  - Part I.E - Only include resumes for key personnel identified in the organizational chart in Part I.D. Include resumes of any sub-consultants that are designated as key personnel and indicate what services the subconsultants will be providing. Resumes for individuals who are not identified as key personnel should not be included in the Proposal.
  - Part I.F – Provide a maximum of ten (10) example projects which best illustrate the key personnel's qualifications for this contract. Example projects shall be no more than two pages in length, single sided, single spaced, 12 point font. Clearly indicate all firms or team members from Part I.C that were involved with each example project. Include client/owner contact information for past performance checks.
  - Part I.G – Indicate key personnel participation in the example projects. Do not indicate any individuals who are not identified as key personnel.
  - Part I.H – Provide additional information the team deems relevant to assist FCDOT in evaluating the proposed team's qualifications and experience. This section shall be limited to no more than 15 pages, double sided, single spaced, 12 point font.
  - Part II - Indicate in item 5b if the firm is a Virginia certified Disadvantaged Business Enterprise (DBE) firm and/or Small, Women and Minority (SWaM) firm and include Virginia DBE and/or SWaM certification number. Provide one copy of Part II for all firms included in the proposed team.
  - The prime consultant shall prepare and submit all forms included in Appendix C, with each copy of the Proposal.

## **SPECIAL PROVISIONS**

- 5.7. **STATEMENT OF QUALIFICATIONS:** The consultant team responding to the RFP will be expected to address, in SF-330 Part 1.H, the proposed Team's qualifications and experience in the following areas.
- a. Demonstrate substantial knowledge of and have extensive experience in transportation planning and engineering with a specialization in multimodal transportation planning, design, environmental documentation, and compliance.
  - b. Have extensive and practical knowledge of federal, state and local transportation funding programs and programming processes and procedures, and expertise with the programming, allocation, and reimbursement processes under FTA programs including the New Starts Program. This includes policies and procedures for programming and obligating federal, state and local funds as well as other sources. The team will also be familiar with and understand the approval processes for environmental documentation and re-evaluation under FTA guidelines.
  - c. Assist the County in preparing, advertising, negotiating, administering, monitoring and managing various types of contracts such as engineering services, environmental services, and various types of construction contracts (including Design-Bid-Build, Design-Build, and Design-Build-Operate-Maintain) that will be required throughout the term of this contract.
  - d. Be familiar with and have experience in public outreach, community engagement, and marketing activities related to large infrastructure projects that include a public transit system, including examples of innovative outreach strategies used on other projects to maximize public involvement in project planning/design. The Team will need to demonstrate familiarity with the VDOT Public Involvement Manual.
  - e. Have specific demonstrable experience in the design, implementation and operation of Bus Rapid Transit systems including successful completion and implementation of these systems. Consultant teams will also need to demonstrate their team's ability to lead a Bus Rapid Transit project including:
    - Program management and control experience across the full spectrum of required services for implementing a BRT system including demonstrating qualifications in planning, environmental compliance and permitting, infrastructure design, and construction of said system(s).
    - Traffic Signals, Traffic Signal Priority, Communication Systems, Intelligent Transportation Systems, Fare Collection methods and systems.
    - Construction of BRT infrastructure, including stations, guideway, and operational support facilities; BRT Vehicle Specifications and procurement assistance such as design/construction contracts, software/systems integration contracts.
    - Bicycle and pedestrian station access planning.
    - Development of BRT service "brand" including how that brand is communicated through vehicle graphics, stations design, and wayfinding.
    - Fleet vehicle contracts.
    - Transit Operations and Testing and innovation regarding project delivery on past BRT projects that could be used to enhance implemented systems.
    - Expertise in BRT station design.
  - f. The selected consultant team shall be led by a highly qualified Project Manager (PM). The County is seeking a Project Manager who demonstrates exceptional experience in managing BRT or similar projects, and has a proven record of successful project completion. The Project Manager should have at least 10 years of progressively responsible work on similar type(s) of BRT projects. The County also expects that each key team member will possess and show comprehensive knowledge to provide complete services for all elements in the assigned Scope of Work/Services.

### **SPECIAL PROVISIONS**

- g. Because of the extended timeframe, complexity, and nature of services that will be required to successfully implement the Route 1 BRT system, it is highly desirable that the Project Manager and, at times, various Key personnel be located in close proximity to the County. As the project moves forward it is conceivable that key members of the PMC Team may be housed within County offices; however the County recognizes this may not be necessary or feasible during early stages of the project

#### **6. COST PROPOSAL INSTRUCTIONS:**

- 6.1. **The County IS NOT** requesting Cost proposals at the present time. The County will request a Cost proposal under separate cover from the top ranked offeror at a later date. The specific cost proposal format will be provided to the top rated offeror at the time the request is made. The County reserves the right to require that Cost proposals be submitted by a specified deadline. The County may reject any Cost proposals that are submitted after the designated date and time.

#### **7. PRICING:**

- 7.1. Compensation procedures outlined in Appendix B "Contract Compensation Procedures" based upon funding type(s) will be applicable to this contract and all subsequent terms of the contract. Compensation for assigned elements of work will be quantified and negotiated in terms of component costs and documented for each task or work assignment. Compensation for each task or work assignment may be negotiated and computed on a Lump Sum, Cost-Plus-Fixed-Fee, or Fixed Billable Rate Not-to-Exceed basis. The preferred method is Lump Sum. In some cases, multiple methods may be utilized to cover work under a specific task or assignment. In some instances, it may be difficult to estimate the amount of effort needed to complete specific or unique tasks or even if a specific task will be necessary or required. In these instances, it is recommended that known quantifiable basic services be negotiated on a lump sum basis and indeterminate or unique tasks be negotiated on a lump sum per each or fixed-billable rate not-to-exceed basis as deemed appropriate by the FCDOT Project Manager. The Contracting Officer must approve in writing the use of any Cost-Plus-Fixed-Fee contract prior to the start of negotiations. The use of Fixed Billable Rate Not-to-Exceed should be generally limited to portions of work within a Lump Sum contract that are difficult to define or scope at the time of negotiations.
- 7.2. Salary Escalation will be permitted under this contract and/or at each renewal period. Yearly escalation rates shall be computed utilizing VDOT approved yearly escalation rates at the time of contract negotiation. The County shall review any proposed escalation rates for conformance with current VDOT policy prior to beginning contract negotiations. For work performed under a Purchase Order(s) that is anticipated to span one or more calendar years from the time of notice to proceed, the Prime and each subconsultant shall provide a breakdown of estimated person hour utilization for each contract calendar year, by task and/or sub-task and by labor classification and provide supporting computations of the resulting direct labor escalation costs. The rate of salary escalation will be reviewed by the FCDOT Project Manager and is subject to negotiation, but at no time will escalation be above the current VDOT approved escalation policy. Salary escalation rates should be in keeping with industry averages, and are subject to negotiation.
- 7.3. The selected offeror shall be required to certify that the cost and pricing data submitted to Fairfax County for the purpose of establishing equitable costs and fees under this contract are complete, current, and accurate as of the date of such submittal. If this cost and pricing data is determined by Fairfax County at some future date not to have been complete, current, and accurate as of the date above, the contract price may be subject to adjustment and/or recoupment as determined by Fairfax County.



**SPECIAL PROVISIONS****8. CONTRACT COMPENSATION:**

- 8.1. The Engineer will comply with the contract compensation procedures as outlined in Appendix B "Contract Compensation Procedures."

**9. OWNERSHIP, USE OF DOCUMENTS, AND COPYRIGHTS:**

- 9.1. Subsequent to making the final payment to the Engineer for all specified contractual financial compensation, Fairfax County shall retain complete and sole ownership of all "documents" prepared by the Engineer. Documents shall include, but are not limited to, data, surveys, studies, drawings, plans, specifications, special provisions, maps, models, and reports prepared by the Engineer, whether or not sealed by the Engineer or his agent. Ownership of the documents shall convey to the County any and all copyrights in the documents and the right to use the documents as the County deems necessary. This provision shall also be applicable to any engineering firm or subconsultant who performs work on the project on a subcontract basis to the Engineer.
- 9.2. For projects involving the use of Federal and State funds, the Engineer expressly acknowledges and agrees that the County shall have the right to transfer the ownership of all "documents" prepared by the Engineer to a third party governmental agency. Such a transfer of ownership will include the conveyance of all rights to use the documents as stipulated in this section. The transfer of ownership and copyrights for the documents to a third party governmental agency (as well as the County) shall in no way relieve the Engineer of their responsibility for their professional services as specified in paragraph 17 Insurance Requirements.
- 9.3. Notwithstanding anything to the contrary all such drawings, plans, maps, photographs, data, and copies have been prepared for the exclusive use of County and are intended for use as an integrated set for this particular project and are not suited for partial use on this project or for use in whole or in part on any other project. Modification or use of said documents on this or any other project without Engineer's prior express written consent shall be at County's sole risk. The Engineer agrees that the contract with the County shall be governed by the statutes and regulations of the Commonwealth of Virginia, including, but not limited to VA Code Ann. Section 54.1-404 ("Regulations; code of professional practice and conduct") and Title 18 VAC 10-20-740 ("professional responsibility").

**10. TRADE SECRETS/PROPRIETARY INFORMATION:**

- 10.1. Trade secrets or proprietary information submitted by an offeror in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, offerors must invoke the protections of this section prior to or upon submission of the data or other materials.
- 10.2. The offeror must identify the data or other materials to be protected and state the reasons why protection is necessary. Disposition of material after award(s) should be stated by the offeror.

**11. CONTACT FOR CONTRACTUAL MATTERS:**

- 11.1. All communications and requests for information and clarifications shall be directed to the following procurement official:

George Bright, CPPB, Contract Specialist Supervisor  
 Department of Purchasing and Supply Management  
 Telephone: (703) 324-3215  
 E-mail: george.bright@fairfaxcounty.gov

- 11.2. No attempt shall be made by any offeror to contact members of the Selection Advisory Committee (SAC) about this procurement (see paragraph 16.3).

**SPECIAL PROVISIONS****13. SUBMISSION OF PROPOSAL:**

- 13.1. In accordance with the directions in paragraph 5, one (1) original (duly marked) and twelve (12) copies of the Technical proposal shall be delivered to the following address in sealed envelopes or packages with the proposal number, title and the offerors name and address on the outside. It is requested that one copy of the proposal be provided in a CD format. The offeror must include a notarized statement that the CD version is a true copy of the printed version. Electronically stamped delivery receipts are available.

Department of Purchasing and Supply Management  
 12000 Government Center Parkway, Suite 427  
 Fairfax, Virginia 22035-0013  
 Telephone: 703-324-3201

- 13.2. Offerors are reminded that changes to the request for proposal, in the form of addenda, are often issued between the issue date and within seven (7) days before the due date of the solicitation. All addenda **MUST** be signed and submitted to the Department of Purchasing and Supply Management, 12000 Government Center Parkway, Suite 427, Fairfax, VA 22035 before the due date/time or must accompany the proposal. Notice of addenda will be posted on eVA and the DPSM current solicitation webpage. It is the Offeror's responsibility to monitor the web page for the most current addenda at [www.fairfaxcounty.gov/solicitation](http://www.fairfaxcounty.gov/solicitation).
- 13.3. It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the Request for Proposal. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the County's evaluation process. The RFP forms must be completed legibly and in their entirety; and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.
- 13.4. Unnecessarily elaborate brochures of other presentations beyond that sufficient to present a complete and effective proposal is not desired. Elaborate artwork, expensive paper, bindings, visual and other presentation aids are not required. The County encourages the use of recycled paper, therefore it is urged that proposals be submitted on paper made from or with recycled content and be printed on both sides.
- 13.5. Each original and set of the ten (10) copies of the proposal shall consist of:
- a. Cover sheet (DPSM32)
  - b. Letter of Submittal
  - c. GSA FORM SF-330 Parts I&II as required in the Special Provisions, paragraph 5, **CONTENTS OF PROPOSAL.**
  - d. Completed Appendix C forms.
- 13.6. By executing the cover sheet (DPSM32), Offeror acknowledges that they have read this Request for Proposal, understand it, and agree to be bound by its terms and conditions. Proposals may be submitted by mail or delivered in person.

**14. LATE PROPOSALS:**

- 14.1 Proposals received in the Office of the County Purchasing Agent after the date and time prescribed shall not be considered for contract award and shall be returned to the offeror.

**15. PERIOD THAT PROPOSALS REMAIN VALID:**

- 15.1 Proposals will remain valid for a period of one-hundred and eighty days (180) calendar days after the date specified for receipt of proposals.

**SPECIAL PROVISIONS****16. BASIS FOR AWARD :**

- 16.1. This Request for Proposal is being utilized for competitive negotiation. Under the competitive negotiation process, a contract may be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the Request for Proposal. The County reserves the right to make multiple awards as a result of this solicitation.
- 16.2. A Selection Advisory Committee (SAC) has been established to review and evaluate all proposals submitted in response to this Request for Proposal. The Committee shall conduct an evaluation of all proposals on the basis of the information provided with the proposal, and the evaluation criteria listed below. .
- 16.3. The County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the public body in addition to the review of the professional competence of the offeror. At this discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in this Request for Proposal and all information developed in the selection process to this point, the Selection Advisory Committee shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. At this time, the offeror and the Selection Advisory Committee may negotiate any changes desired in the offer if deemed in the best interest of Fairfax County. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.
- 16.4. Proposal Evaluation Criteria  

The following factors will be considered in the award of this contract:

  - a. Technical ability and experience of Project Manager and key professional personnel assigned in each service/specialty area - 30% (30 points)
  - b. Overall team approach to project including innovative techniques, public involvement experience and 3rd party coordination – 25% (25 points)
  - c. Technical ability and experience of the firm/team on other similar types of projects - 20% (20 points)
  - d. QA/QC Procedures/Approach and Project Controls – 10% (10 points)
  - e. Team/Firm experience on different project delivery methods (i.e. Design/Bid/Build, D/B, DBOM, etc.) - 15 % (15 points)
- 16.5. Fairfax County reserves the right to make on-site visitations to assess the capabilities of individual offerors and to contact references provided with the proposal.
- 16.6. The County Purchasing Agent may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.

### **SPECIAL PROVISIONS**

- 16.7. Offerors are advised that, in the event of receipt of an adequate number of proposals, which, in the opinion of the County Purchasing Agent, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Consequently, offerors should provide complete, thorough proposals with the offerors most favorable terms. Should proposals require additional clarification and/or supplementary information, offerors should submit such additional material in a timely manner.
- 16.8. Proposals which, after discussion and submission of additional clarification and/or supplementary information, are determined to meet the specifications of this Request for Proposal will be classified as "acceptable". Proposals found not to be acceptable will be classified as "unacceptable" and no further discussion concerning same will be conducted.
- 16.9. The County may cancel this Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

### **17. INSURANCE :**

- 17.1 The Contractor shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract.
- 17.2 The Contractor shall, during the continuance of all work under the Contract provide the following:
  - a. Maintain statutory Worker's Compensation and Employer's Liability insurance in limits of not less than \$100,000 to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.
  - b. The Contractor agrees to maintain Commercial General Liability insurance in the amount of \$1,000,000 per occurrence/aggregate, to protect the Contractor, its subcontractors, and the interest of the County, its officers and employees against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in connection with the contracted work.
  - c. The Contractor agrees to maintain owned, non-owned, and hired Automobile Liability insurance, in the amount of \$1,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned borrowed, leased, or rented vehicles operated by the Contractor.
  - d. The Contractor agrees to maintain Professional Liability insurance in the amount of \$1,000,000 per claim to cover each individual professional staff.

**SPECIAL PROVISIONS**

## e. Liability Insurance "Claims Made" basis:

If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:

1. Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's or sub-contractor's work under this contract, or
2. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

- f. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.
- g. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia with the Best's Key Rating of at least A:VI.
- h. European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the Contractor's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A:VI or better.
- i. Hold-harmless and Indemnification: Article 63 of the General Conditions and Instructions to Bidders (Appendix A) shall apply where DPSM form is used. If not, following paragraph shall be inserted:

"The Contractor hereby agrees to indemnify and hold harmless Fairfax County, Virginia, its officers, agents and all employees and volunteers, from any and all claims for bodily injury, and personal injury and/or property damage, including cost of investigation, all expenses of litigation, including reasonable attorney fees, and the cost of appeals arising out of any claims or suits which result from errors, omissions, or negligent acts of the Contractor, his subcontractors and their agents and employees".

- j. The Contractor will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein.
- k. The Contractor will secure and maintain all insurance certificates of its subcontractors, which shall be made available to the County on demand.
- l. The Contractor will provide on demand certified copies of all insurance policies related to the contract within ten business days of demand by the County. These certified copies will be sent to the County from the Contractor's insurance agent or representative.

- 17.3. No change, cancellation, or non-renewal shall be made in any insurance coverage without a thirty (30) day written notice to the County. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

### **SPECIAL PROVISIONS**

- 17.4. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities provisions of the contract.
- 17.5. Contractual and other liability insurance provided under this contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the County from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors.
- 17.6. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the County. The Contractor shall be as fully responsible to the County for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of person directly employed by it.
- 17.7. Precaution shall be exercised at all times for the protection of persons (including employees) and property.
- 17.8. The Contractor and all subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-596, as it may apply to this Contract.
- 17.9. The County, its officers and employees shall be named as an "additional insured" in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the County may possess."

#### **18. METHOD OF ORDERING:**

- 18.1. The County will issue Purchase Orders for each task order under the contract. Solely the contract and any modification determine performance time and dates.
- 18.2. Performance under this contract is not to begin until receipt of the purchase order or other notification to proceed by the County Purchasing Agent and/or County agency to proceed. Purchase requisitions shall not be used for placing orders.

#### **19. REPORTS AND INVOICING:**

- 19.1 The Contractor shall maintain all records in compliance with federal and state regulations. The Contractor(s) shall submit to each program administrator, monthly statistical reports and an annual tabulated report.
- 19.2 The Contractor shall invoice the County department using the final contract separately. Invoices for all users of the contract must meet County requirements, unless otherwise indicated. The Contractor shall send the department an itemized monthly invoice (or as agreed to between the parties), which must include the information listed below:
  - a. Employee name;
  - b. The name of the County department;
  - c. Date of services
  - d. The type of services; and,
  - e. The itemized cost for each item/service.

#### **20. PAYMENTS:**

- 20.1 **Contract Compensation:** The Engineer will comply with the contract compensation procedures as outlined in Appendix B.

**SPECIAL PROVISIONS**

- 20.2 Purchase Orders will be issued and negotiated for individual assignments as the need arises. It is envisioned that the initial Purchase Order(s) will be established immediately following execution of the contract. Details involving specific work tasks, deliverables, schedules, payment methods and other administrative items will be incorporated in each Purchase Order assignment.
- 20.3 The standard method of payment shall be lump sum with monthly billings based upon estimated percent complete on each task. For Cost-Plus-Fixed-Fee, or Fixed Billable Rate Purchase Orders, billings shall include a detailed breakdown of actual costs incurred. The percent fee earned for each billing period shall be based upon the ratio of actual costs through the billing period divided by the estimated total costs included in the approved contract. Progress reports must be submitted with each payment request stating work completed and the status of the various project tasks. Payment requests shall correspond directly with the project tasks as outlined in the proposal. Some scoped tasks agreed during the Scope and Fee Development phase may not be required during the design process and the lump sum amount for these tasks will not be billed. The total authorized contract amount will decrease accordingly. The following provisions shall be applicable to these payments:
1. Progress payments shall be made up to 95 percent of the total contract lump sum amount.
  2. The remaining five percent of the total lump sum amount will be paid following final acceptance of the completed work under the specified Purchase Order by the Fairfax County Department of Transportation.
  3. At such time that either the payment request or the actual work completed reaches 50 percent of the total amount, the Engineer and the County shall meet to review the project status and projected completion schedule. The County reserves the right to meet with the Engineer at any time to review the project status.
  4. The following statement is to be included on all invoices:  
  

"I certify that the amount of this invoice is just and correct, and in accordance with the terms of the contract, and that payment thereof has not been previously received."

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

**21. CHANGES:**

- 21.1. This contract and any and all terms including renewals awarded to the selected firm/team shall be negotiated under the Terms & Conditions included herein. Changes to the Terms & Conditions, including insurance requirements, will NOT be allowed without written consent of Fairfax County.
- 21.2. Fairfax County may, at any time, by written order, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractors cost of, or time required for, performance of any services under this contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. The County Purchasing Agent must approve all work that is beyond the scope of this Request for Proposal.
- 21.3. No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Fairfax County Purchasing Agent.

**SPECIAL PROVISIONS****22. DELAYS AND SUSPENSIONS:**

- 22.1. The County may direct the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time deemed appropriate for the convenience of the County. The County will extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.
- 22.2. If the County does not direct the Contractor, in writing, to suspend, delay, or interrupt the contract, the Contractor must give the County Purchasing Agent written notice if Fairfax County fails to provide data or services that are required for contract completion by the Contractor. The County may extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.
- 22.3. The Contractor shall continue its work on other phases of the project or contract, if in the sole discretion of the Purchasing Agent such work is not impacted by the County's delay, suspension, or interruption. All changes to the work plan or project milestones shall be reflected in writing as a contract amendment.

**23. ACCESS TO AND INSPECTION OF WORK:**

- 23.1. The Fairfax County Purchasing Agent and using agencies will, at all times, have access to the work being performed under this contract wherever it may be in progress or preparation.

**24. PROJECT AUDITS:**

- 24.1. The Contractor shall maintain books, records and documents of all costs and data in support of the services provided. Fairfax County or its authorized representative shall have the right to audit the books, records and documents of the contractor under the following conditions:
  - a. If the contract is terminated for any reason in accordance with the provisions of these contract documents in order to arrive at equitable termination costs;
  - b. In the event of a disagreement between the contractor and the County on the amount due the Contractor under the terms of this contract;
  - c. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Contractor's efficiency or effectiveness under this contract; and,
  - d. If it becomes necessary to determine the County's rights and the contractor's obligations under the contract or to ascertain facts relative to any claim against the Contractor that may result in a charge against the County.
- 24.2. These provisions for an audit shall give Fairfax County unlimited access during normal working hours to the Contractor's books and records under the conditions stated above.



### **SPECIAL PROVISIONS**

- 24.3. Unless otherwise provided by applicable statute, the contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to Fairfax County for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor but without direct charge to the County, all its books, records documents and other evidence bearing on the costs and expenses of the services relating to the work hereunder.
- 24.4. Fairfax County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein. The Contractor shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it and they shall require same to be inserted by all lower tier subcontractors in their subcontracts, for any portion of the work.
- 24.5. Should the Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure Fairfax County's rights hereunder, the Contractor shall be liable to Fairfax County for all reasonable costs, expenses and attorney's fees which Fairfax County may have to incur in order to obtain an audit or inspection of or the restoration of records which would have otherwise been available to Fairfax County from said persons under this clause. Such audit may be conducted by Fairfax County or its authorized representative.

#### **25. DATA SOURCES:**

- 25.1. The County will provide the Contractor all available data possessed by the County that relates to this contract. However, the Contractor is responsible for all costs for acquiring other data or processing, analyzing or evaluating County data.

#### **26. SAFEGUARDS OF INFORMATION:**

- 26.1. Unless approved in writing by the County Purchasing Agent, the Contractor may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Contractor under the final contract.
- 26.2. The preceding restriction shall not apply to information which is in the public domain, was previously known to Engineer, and was acquired by Engineer from others who have no confidential relationship to county with respect to same or which, through no fault of Engineer, come into the public domain. Engineer shall not be restricted in any way from releasing information, including proprietary information, in response to a subpoena, court order, or other legal process. Engineer shall not be required to resist such subpoena, court order, or legal process, but shall promptly notify County in writing of the demand for information before Engineer responds to such demand. County may, at its sole discretion, seek to quash such demand.

#### **27. ORDER OF PRECEDENCE:**

- 27.1. In the event of conflict, the Acceptance Agreement (provided at contract award) and the Special Provisions of this contract shall take precedence over the General Conditions and Instructions to Bidders, (Appendix A).

#### **28. CRIMINAL BACKGROUND INFORMATION:**

- 28.1 Fairfax County reserves the right to conduct a Criminal Background Information Investigation on any employee that is working on this project for the Engineer or sub-consultant(s). Fairfax County may require that any employee working on this project for the Engineer or sub-consultant(s) be removed from the project team for reasons that may include the results of the Criminal Background Investigation. The Criminal Background Investigation may require fingerprinting of employees. The Criminal Background Investigation requirement shall be exercised at the sole discretion of Fairfax County.

**SPECIAL PROVISIONS****29. PURCHASE OF BUILDING MATERIALS:**

- 29.1 The purchase of building materials, etc., from an Architect or Engineer is prohibited. The following provisions are applicable to this requirement:
- a. No building material, supplies, or equipment from any building or structure constructed by or for the County shall be sold or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in Section 2.1-639.2 of the Code of Virginia.
  - b. No building material, supplies, or equipment for any building or structure constructed by or for the County shall be sold or purchased from any person that has provided or currently providing design services specifying a sole source of material, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in Section 2.1-639.2 of the Code of Virginia.

**30. FORCE MAJEURE:**

- 30.1 The respective duties and obligations of the parts hereunder (except the Owner's obligation to pay the Engineer such sums as may become due from time to time for services rendered by it) shall be suspended while and so long as performance thereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, acts of the Owner, or any other cause similar or dissimilar to the foregoing which are beyond the reasonable control of the party from whom the affected performance was due.

**31. ASBESTOS OR HAZARDOUS SUBSTANCES:**

- 31.1 If the Engineer encounters hazardous substances in any form at the site, or reasonably believes that hazardous substances are present, the Engineer will stop his work in the affected portions of the Project and notify the Owner for authorization to conduct testing to determine the extent of the problem and recommend the necessary remedial measures to be implemented.
- 31.2 If the Engineer encounters asbestos at the site, or reasonably suspects asbestos is present, the Engineer will stop his work in the affected portions of the Project and notify the Owner for authorization to manage testing to determine the extent of the problem and the asbestos assessment activities using a qualified subcontractor.
- 31.3 The scope of work and costs associated with testing, evaluation and remedial measures associated with asbestos and/or hazardous material remediation are not included in the payment/compensation procedures of this document, the term of the agreement and the Engineer's compensation shall be adjusted equitably to accommodate such testing, evaluation and remedial measures.

**SPECIAL PROVISIONS****32. ENGINEER'S PERSONNEL AT PROJECT SITE:**

- 32.1 The presence of the Engineer's personnel at a project site, whether as on-site representatives or otherwise, does not make the Engineer or the Engineer's personnel in any way responsible for those duties that belong to the Owner and/or other entities. The Engineer is completely responsible for their employees in connection with their work or for any health or safety precautions and for inspecting or correcting the health or safety deficiencies of the Engineer's own personnel. This includes, but is not limited to, the provision of the necessary personal protection equipment (hard hats, work shoes, safety vests, etc.), and training (confined spaces, open trench safety, etc.) for on-site safety as required or recommended by the Occupational Safety and Health Administration. The Engineer assumes all responsibility and liability for any injuries incurred by their employees on or off the Project site. The presence of the Engineer's personnel at a project site is for the purpose of determining the integrity of the design provided to the County and is acceptable and in accordance with current design and safety standards.

**33. SAFETY PROVISION:**

- 33.1 All work performed under the contract by the Engineer and all subconsultants will conform to this section and adhere to the current Occupational Safety and Health Administration (OSHA) and Virginia Occupational Safety and Health Administration (VOSH) Standards. The Engineer shall ensure that all personnel performing work in or adjacent to, locations subject to vehicular traffic receive appropriate training, including periodic update refresher courses, and comply with all current requirements for "Work Zone Training (WRZ) and "Work Zone Traffic Control (WZTC)."
- 33.2 The Engineer agrees to incorporate an ongoing work safety program for all new and existing employees working on this contract. All personnel with the limits of Fairfax County contract work are required to wear appropriate clothing and Personal Protective Equipment (PPE) including but not limited to hard hats, safety shoes, high visibility vests and eye protection as appropriate. The Engineer agrees to notify Fairfax County in writing within five working days of receipt of any safety violation involving work on the County's project.

**34. NEWS RELEASE BY VENDORS:**

- 34.1 As a matter of policy, the County does not endorse the products or services of a contractor. News releases concerning any resultant contract from this solicitation will not be made by a contractor without the prior written approval of the County. All proposed news releases will be routed to the Purchasing Agent for review and approval.

**35. AMERICANS WITH DISABILITIES ACT REQUIREMENTS:**

- 35.1. Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment. Your acceptance of this contract acknowledges your commitment and compliance with ADA.
- 35.2. Fairfax County is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Bidders requesting special accommodations should call the Department ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven (7) working days in advance of the event to make the necessary arrangements.
- 35.3. Further information regarding HIPAA Compliance is available on the County's website at <http://www.fairfaxcounty.gov/HIPAA>.

## **SPECIAL PROVISIONS**

### **36. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:**

- 36.1 Pursuant to *Code of Virginia*, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information may not receive an award.

### **37. NON-DISCRIMINATION PROVISIONS FOR FEDERALLY FUNDED PROJECTS**

- 37.1 Non-Discrimination Provisions for Federally Funded Projects - Construction contractors and consultants agree to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e). Title VI of the Civil Rights Act of 1964 declares it to be the policy of the United States that discrimination on the grounds of race, color, or national origin shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments, agencies, and subrecipients to take action to carry out this policy. Title VII of the Civil Rights Act prohibits discrimination against any employee or applicant for employment on the basis of race, religion, color, sex or national origin for employers with 15 or more employees. The contractor/consultant further agrees to abide by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibits discrimination on the basis of age. 49 CFR Parts 21, 23, 26, and 27, and 23 CFR Parts 200, 230, and 633 are incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The contractor/consultant shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5 40 through 51.5 46 of the Code of Virginia, as amended, the terms of which are incorporated herein by reference.
- 37.2 Fairfax County assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within ten work days of notification of selection when requested by the County. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000.

### **38. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS**

- 38.1 While Fairfax County has established no numerical DBE participation goals, the consultant shall make good-faith efforts to use DBEs for all sub-consultant opportunities. When projects are identified that utilize federal funding, consultants shall make good-faith efforts to ensure that DBEs have the maximum practicable opportunity to compete for sub-consultant work pursuant to this policy.
- 38.2 The DBE contract goal for this procurement is 0 %; however, the County feels that these services support **10% DBE participation** on federal and/or state funded projects.

**SPECIAL PROVISIONS**

- 38.3 It is the policy of Fairfax County that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (<http://www.dmbe.state.va.us/>) under the DBE Directory of Certified Vendors. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The consultant is encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited.
- 38.4 Additionally the Governor's Executive Order No. 33, requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Minority Business Enterprise (DMBE) certified SWaM firms is maintained on the DMBE Web site (<http://www.dmbe.state.va.us/>) under the SWaM Vendor Directory link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider SWaM firms as potential subconsultants. The consultant is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited.
- 38.5 If projects are identified as state and/or federally funded and a DBE and/or SWaM participation goal is set for that particular task order, the contract negotiation shall provide for this requirement.
- 38.6 If portions of the services are to be subcontracted to a DBE or SWaM, the following needs to be submitted with your Proposal and both must reference this RFP for the services:
- Written documentation of the prime's commitment to the DBE or SWaM firm to subcontract a portion of the services, a description of the services to be performed and the percent of participation.
  - Written confirmation from the DBE or SWaM firm that it is participating, including a description of the services to be performed and the percent of participation.
- 38.7 49 CFR Part 26 requires FTA and FCDOT to collect certain data about firms attempting to participate in FCDOT contracts. This data must be provided on the enclosed Firm Data Sheet.
- 38.8 FCDOT is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on a quarterly basis.
- 38.9 Any DBE or SWaM firm must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If DBE or SwaM firm is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SwaM subconsultants. DBE or SwaM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SwaM credit will be awarded only for work actually being performed by them. When a DBE or SwaM prime consultant subcontracts work to another firm, the work counts toward DBE or SwaM goals only if the other firm is itself a DBE or SwaM. A DBE or SwaM prime consultant must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

### **SPECIAL PROVISIONS**

38.10 DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

38.11 Appendix B contains additional guidance on DBE participation and good faith efforts.

**39. COUNTY LIVING WAGE:**

39.1 Fairfax County is committed to paying a living wage to all qualified County employees and encourages contractors and subcontractors involved in all County programs, services and activities to pay a living wage to their employees.

**40. ACCESS TO RECORDS AND REPORTS (49 U.S.C. 5325(a), 18 CFR 18.36 (i), 49 CFR 633.17)**

The following access to records requirements apply to this Contract:

accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide FCDOT, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

40.2 The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

40.3 The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

40.4 Neither FTA nor the County requires the inclusion of these requirements in subcontracts.

**41. LOBBYING**

41.1 This Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

41.2 Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]

41.3 Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

41.4 Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

41.5 Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

### **SPECIAL PROVISIONS**

- 41.6 Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.
- 41.7 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.
- 41.8 Prime Consultant and all proposed subconsultants shall complete and submit the Lobbying Certification Statement with their proposal. See Attachment 5

#### **42. FEDERAL CHANGES (49 CFR Part 18):**

- 42.2 The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **43. NO GOVERNMENT OBLIGATION TO THIRD PARTIES:**

- 43.1 The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- 43.2 The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **44. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS:**

Clause 10.3.S.C. 3801 et seq., 49 CFR Part 31 18 U.S.C. 1001, 49 U.S.C. 5307) –

- 44.1 The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

### **SPECIAL PROVISIONS**

- 44.2 The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- 44.3 The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**45. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:**

- 45.1 Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**46. REQUIREMENT TO KEEP TEAM INTACT:**

- 46.1 The proposed team included in the Proposal, including but not limited to the organizational structure, sub-consultants and other individuals identified as key personnel, shall remain on the team for the duration of the procurement process and, if the team is awarded the contract, the duration of the contract. If extraordinary circumstances require a change, it must be submitted in writing to FCDOT's POC, who, in his/her sole discretion, will determine whether to authorize a change; this includes all other personnel replacements during the life of the contract. If any key personnel are replaced during the duration of the contract, FCDOT shall have the right to review and approve any new personnel. The Consultant shall notify FCDOT immediately of any changes in key personnel and provide FCDOT with the resume or other appropriate information for the new personnel to be assigned to the project. Unauthorized changes to the team at any time during the procurement process may result in the elimination of the team from further consideration without the County's approval.

**47. CONFLICT OF INTEREST:**

- 47.1 Each firm/team shall require its proposed members to identify potential conflicts of interest of a real or perceived competitive advantage relative to this procurement. Firms/teams are notified that prior or existing contractual obligations between a company and a federal or state agency relative to the project may present a conflict of interest or a competitive advantage. If a potential conflict of interest or competitive advantage is identified, the firm/team shall submit in writing the pertinent information to the DPSM Contract Administrator.
- 47.2 The Purchasing Agent has sole discretion to make a determination relative to potential organizational conflicts of interest or a real or perceived competitive advantage, and its ability to mitigate such a conflict. An organization determined to have a conflict of interest or competitive advantage relative to this procurement that cannot be mitigated, shall not be allowed to participate as a team member for the project.



**SPECIAL PROVISIONS**

- 47.3 Each Engineer shall certify, upon signing a proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- 47.4 Whenever there is reason to believe that a financial benefit of the sort described in the prior paragraph has been or will be received in connection with a proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

**48. ATTACHMENTS:**

- 48.1 The following attachments are specifically made a part of, and incorporated by reference into this RFP:

Appendix A – General Terms and Conditions

Appendix B - Contract Compensation Procedures

Good Faith Efforts

Appendix C - Forms

Offeror Data Sheet

Business Classification Definitions

Virginia State Corporation Commission (SCC) Registration Information

Attachment 1 Firm Data Sheet

Attachment 2 Certification Regarding Debarment Form Primary Covered Transactions

Attachment 3 Certification Regarding Debarment Form Lower Tier Covered Transactions

Attachment 4 Certification Regarding Lobbying

Business, Professional, and Occupational License

Certification Regarding Debarment or Suspension (County Form)

Certification Regarding Ethics in Public Contracting

Supplier Diversity Program Form (County Form)

# COUNTY OF FAIRFAX COMMONWEALTH OF VIRGINIA

## GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

**1. AUTHORITY** -The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

### 2. DEFINITIONS-

**AGENCY:** Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

**BEST VALUE:** As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

**BID:** The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

**BIDDER/OFFEROR:** Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

**CONSULTANT SERVICES:** Any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

**CONTRACTOR:** Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

**COUNTY:** County of Fairfax.

**GOODS:** All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

**INFORMALITY:** A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

**INVITATION FOR BID (IFB):** A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

**PROFESSIONAL SERVICES:** Any type of professional service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution).

**PURCHASING AGENT:** The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

**QUICK QUOTE (QQ):** A method of competitive bidding for the purchase or lease of goods, non professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less the \$50,000.

**REQUEST FOR PROPOSAL (RFP):** A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

**RESPONSIBLE BIDDER/OFFEROR:** An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).

### **General Conditions and Instructions to Bidders**

**RESPONSIVE BIDDER/OFFEROR:** An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

**SERVICES:** Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

**SOLICITATION:** The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

**STATE:** Commonwealth of Virginia.

### **CONDITIONS OF BIDDING**

**3. BID FORMS-**Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope or package. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

#### **4. LATE BIDS & MODIFICATIONS OF BIDS-**

- a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:
  1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or
  2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.
- b. If an emergency or unanticipated event or closing interrupts or suspends normal County business operations so that bids cannot be received at the County office designated for receipt of bids by the exact time specified in the solicitation, the due date/time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal County business operations resume.
- c. The official time used for receipt of bids/modifications is the Bid Clerk's time and date stamp clock located in the Department of Purchasing and Supply Management. All bidders are responsible for ensuring all bids/modifications are received prior to the scheduled due date/time.
- d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

#### **5. WITHDRAWAL OF BIDS-**

- a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
- b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:
  1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.
  2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

**General Conditions and Instructions to Bidders**

- c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
  - d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.
  - e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
  - f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
  - g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.
- 6. ERRORS IN BIDS-**When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.
- 7. MAILING OF BIDS** – All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted in a sealed envelope or package identified with the solicitation number, title, bidder's name and address, and due date/time of opening/closing clearly marked on the outside of such envelope or package.
- 8. COMPLETENESS-**To be responsive, a bid must include all information required by the solicitation.
- 9. ACCEPTANCE OF BIDS/BINDING 90 DAYS-**Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.
- 10. CONDITIONAL BIDS-**Conditional bids are subject to rejection in whole or in part.
- 11. BIDS FOR ALL OR PART-**Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.
- 12. AREA BIDS-**For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.
- 13. TIME FOR RECEIVING BID-**Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.
- 14. BID OPENING-**All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site: <http://www.fairfaxcounty.gov/dpsm/bidtab.htm>. Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.
- 15. OMISSIONS & DISCREPANCIES-**Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.
- Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.
- 16. RESPONSE TO SOLICITATIONS-**In the event a vendor cannot submit a bid on a solicitation, he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.
- 17. BIDDER INTERESTED IN MORE THAN ONE BID-**If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

### **General Conditions and Instructions to Bidders**

**18. TAX EXEMPTION**-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

**19. PROHIBITION AGAINST UNIFORM PRICING**-The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market methods of procurement. In submitting a bid each bidder shall, by virtue of submitting a bid, guarantee that he or she has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.

### **SPECIFICATIONS**

**20. QUESTIONS CONCERNING SPECIFICATIONS**-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

**21. BRAND NAME OR EQUAL ITEMS**-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

**22. FORMAL SPECIFICATIONS**-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

**23. FEDERAL SPECIFICATIONS**-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

### **AWARD**

**24. AWARD OR REJECTION OF BIDS**-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- d. The quality of performance of previous contracts or services;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- g. The quality, availability and adaptability of the goods or services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- i. The number and scope of the conditions attached to the bid;
- j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
- k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

**General Conditions and Instructions to Bidders**

**25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-**A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

- a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,
- b. General Conditions and Instructions to Bidders,
- c. Special Provisions and Specifications,
- d. Pricing Schedule,
- e. Any Addenda/Amendments/Memoranda of Negotiations

**26. TIE-BIDS** – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

**27. PROMPT PAYMENT DISCOUNT-**

- a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

**28. INSPECTION-ACCEPTANCE-**For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

**29. DEFINITE BID QUANTITIES-**Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

**30. REQUIREMENT BID QUANTITIES-**On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

**CONTRACT PROVISIONS**

**31. TERMINATION OF CONTRACTS-**Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

- a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
- b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

**32. TERMINATION FOR CONVENIENCE-**A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

**General Conditions and Instructions to Bidders**

**33. TERMINATION OF CONTRACT FOR CAUSE-**

- a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this contract, in addition to the County's remedies under the contract and all other rights available at law or in equity, the County shall have the right to immediately terminate this contract. Such termination shall be effected by delivering a notice of termination to the Contractor at any time specifying the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

**34. CONTRACT ALTERATIONS-**No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

**35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-**It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

**36. FUNDING-**A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

**37. DELIVERY/SERVICE FAILURES-**Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

**38. NON-LIABILITY-**The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

**39. NEW GOODS, FRESH STOCK-**All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

**40. NON-DISCRIMINATION-**During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

**41. SMALL AND MINORITY BUSINESS UTILIZATION -**

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.
- c. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget 2 CFR Part 215, Circular A-102

### **General Conditions and Instructions to Bidders**

**42. GUARANTEES & WARRANTIES**-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

**43. PRICE REDUCTION**-If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. **FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT.** Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent.

The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

**44. CHANGES**-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

**45. PLACING OF ORDERS**-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

### **DELIVERY PROVISIONS**

**46. SHIPPING INSTRUCTIONS - CONSIGNMENT**-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

**47. RESPONSIBILITY FOR SUPPLIES TENDERED**-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

**48. INSPECTIONS**-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

**49. COMPLIANCE**-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

**50. POINT OF DESTINATION**-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.



### **General Conditions and Instructions to Bidders**

**51. ADDITIONAL CHARGES**-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

**52. METHOD AND CONTAINERS**-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

**53. WEIGHT CHECKING**-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

**54. DEMURRAGE AND RE-SPOTTING**-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

**55. REPLACEMENT**-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

**56. PACKING SLIPS OR DELIVERY TICKETS**-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

### **BILLING**

**57. BILLING**-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

### **PAYMENTS**

**58. PAYMENT**-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

**59. PARTIAL PAYMENTS**-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

**60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING**-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

### **GENERAL**

**61. GENERAL GUARANTY**-Contractor agrees to:

- a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
- b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
- c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
- d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
- e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

**General Conditions and Instructions to Bidders**

**62. SERVICE CONTRACT GUARANTY**-Contractor agrees to:

- a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
- b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
- c. All work and services rendered in strict conformance to all laws, statutes, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.
- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
- e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

**63. INDEMNIFICATION**-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, theft, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

**64. OFFICIALS NOT TO BENEFIT-**

- a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
- c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

**65. LICENSE REQUIREMENT**-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: [http://www.fairfaxcounty.gov/dta/business\\_tax.htm](http://www.fairfaxcounty.gov/dta/business_tax.htm). The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

**66. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:**A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

**67. COVENANT AGAINST CONTINGENT FEES**-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**68. VIRGINIA FREEDOM OF INFORMATION ACT**-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Reference Section 4.D., of the Fairfax County Purchasing Resolution)

**General Conditions and Instructions to Bidders**

**BIDDER/CONTRACTOR REMEDIES**

**69. INELIGIBILITY-**

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
  1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
  2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
  1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
  2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;
  3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
  4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
    - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
    - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;
  5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
  6. The contractor has abandoned performance or been terminated for default on any other Fairfax County project;
  7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

**70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-**

- a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.
- b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

**71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-**

- a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

**General Conditions and Instructions to Bidders**

**72. PROTEST OF AWARD OR DECISION TO AWARD-**

- a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 3, Section 4, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4d of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4d, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.
- b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.
- c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

**73. CONTRACTUAL DISPUTES-**

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County's Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

**74. LEGAL ACTION-**No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

**75. COOPERATIVE PURCHASING-**The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

**76. PROFESSIONAL AFFILIATION-**The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

**77. DRUG FREE WORKPLACE-**During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**General Conditions and Instructions to Bidders**

**78. VENUE:** This contract and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, construed and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia, that would cause the application of any laws other than those of the Commonwealth of Virginia shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this contract or any performance hereunder, shall be brought in the applicable court of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.

**79. IMMIGRATION REFORM AND CONTROL ACT:** Contractor certifies that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

**80. CONTRACTOR NOT TO BENEFIT:** Contractor agrees that the goods and/or services provided to Fairfax County pursuant to this Agreement are for the benefit of Fairfax County and that Contractor shall not undertake any actions or efforts stemming from or related to this Agreement that shall inure to the detriment of Fairfax County. Any information provided to the Contractor for the performance of this Contract shall not be used for any other purpose without the written consent of the Purchasing Agent.

**APPROVED:**

/S/ David P. Bobzien  
COUNTY ATTORNEY

/S/ Cathy A. Muse  
COUNTY PURCHASING AGENT

## OFFEROR DATA SHEET

NAME OF OFFEROR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

Name and e-mail addresses of both service and fiscal representatives (Key Personnel)  
who would handle this account.

Service Representative: \_\_\_\_\_  
Telephone Number: (    ) \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Fiscal Representative: \_\_\_\_\_  
Telephone Number: (    ) \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Payment Address, if different from above:

\_\_\_\_\_  
\_\_\_\_\_

## BUSINESS CLASSIFICATION DEFINITIONS

**YOU MUST CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING THE APPROPRIATE BOXES ON THE COVER SHEET (DPSM 30).** This designation is required of all business/organizations including publicly traded corporations, non-profits, employment services organizations, government organizations, partnerships, sole proprietorships, etc.

**Check all that apply:**

☐ **Micro Business Enterprise:** A business concern which, together with affiliates, has 25 or fewer employees, **and** average annual gross receipts of \$3 million or less averaged over the previous three years.  
Number of Employees: \_\_\_\_\_ Averaged Gross receipts: \$ \_\_\_\_\_

☐ **Small Business Enterprise:** A business concern which, together with affiliates, has 250 or fewer employees, **or** average annual gross receipts of \$10 million or less averaged over the previous three years.  
Number of Employees: \_\_\_\_\_ Averaged Gross receipts: \$ \_\_\_\_\_

**Minority-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more minorities or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more minorities and whose management and daily business operations are controlled by one or more of such individuals as listed below. "Minority" means a person who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

- ☐ "Asian American" means all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Marinas, the Philippines, U. S. territory of the Pacific, India, Pakistan, Bangladesh and Srilanka and who are regarded as such by the community of which these persons claim to be a part.
- ☐ "African American" means all persons having origins in any of the original peoples of Africa and who are regarded as such by the community of which these persons claim to be a part.
- ☐ "Hispanic American" means all persons having origins in any of the Spanish speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who are regarded as such by the community of which these persons claim to be a part.
- ☐ "Native American" means all persons having origins in any of the original peoples of North America and who are regarded as such by the community of which these persons claim to be a part or who are recognized by a tribal organization.
- ☐ "Eskimo and Aleut" means all persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia and who are regarded as such in the community of which these persons claim to be a part.

☐ **Woman-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more women, and whose management and daily business operations are controlled by one or more of such individuals.

## BUSINESS CLASSIFICATION DEFINITIONS

- ☐ **Service Disabled Veteran-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more Certified Service Disabled Veterans who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more Certified Service Disabled Veterans, and whose management and daily business operations are controlled by one or more of such individuals.
- ☐ **Employment Services Organization (ESO):** an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.
- ☐ **Not for Profit Organization:** An organization organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. In addition, it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.
- ☐ **Government/Public Body:** An organization that is the governing authority of a political unit and typically responsible for the public administration of towns, cities, counties and districts. A Public Body means: an Agency, council, body, whether incorporated or not, established under an Act for a public purpose, a body whose members, or a majority of whose members, are appointed by the Administrator or a minister, a government-owned corporation, a body (whether incorporated or not) prescribed by regulation: that is supported directly or indirectly by government funds or other assistance, or over which the Territory is in a position to exercise control, or university.

**PLEASE RETURN THIS FORM WITH YOUR BID PACKAGE. CONTRACT AWARD MAY NOT BE MADE WITHOUT IT.**

**NAME OF FIRM:** \_\_\_\_\_

### CERTIFICATIONS

Fairfax County recognizes certifications from certifying bodies for tracking purposes. Fairfax County does not include preferences or set-aside programs for SWaM categories as a procurement practice.

Does your entity hold certifications from the following bodies?

| <b>SBSD</b>   | <b>VMSDC</b>  |
|---|---|
| Virginia Department of Small Business<br>and Supplier Diversity<br>1111 East Main Street, Suite 300<br>Richmond, VA 23219<br>Phone: (804) 786-6585<br><a href="http://www.sbsd.virginia.gov/">http://www.sbsd.virginia.gov/</a> | Virginia Minority Supplier Development Council<br>10750 Columbia Pike, Suite 200<br>Silver Spring, MD 20901<br>Phone: (301) 593-5860<br><a href="http://www.crmsdc.org/">http://www.crmsdc.org/</a> |

Certifying Agency: \_\_\_\_\_

Certification Expiration Date: \_\_\_\_\_

Certification Number: \_\_\_\_\_



**VIRGINIA STATE CORPORATION COMMISSION (SCC)**  
**REGISTRATION INFORMATION**

The bidder:

☐ is a corporation or other business entity with the following SCC identification number:  
\_\_\_\_\_ **-OR-**

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**

☐ is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids:

CONTRACT COMPENSATION PROCEDURES

A. **ADMINISTRATIVE INFORMATION TO BE INCLUDED IN FUTURE COST PROPOSAL(S):**

- A.1. The total estimated engineering cost for each phase and the total project, along with an hourly rate fee schedule, must be included for the different job classifications that will be assigned to the project. Individual employee salaries are not required. A summary, by task, of the staff-hours projected for each job classification to be assigned to the project shall also be included along with a statement that the fee schedule shall remain valid for the length of the contract. In addition, include a proposed sheet listing. State in the proposal that the total estimated engineering cost will not be exceeded without prior written authorization from the County. Increases or decreases in the scope of the project may result in an adjustment to the approved fee. Authorization to increase the approved fee will not be considered unless it can be clearly established that actual work is required beyond the currently approved scope of work. The work associated with the total project shall be divided into various project tasks, along with the estimated cost for each task identified.
- A.2. A time schedule in bar graph form from the notice to proceed to completion of the various tasks must be outlined in the proposal, as well as a statement requiring that your firm obtain written approval from the County prior to proceeding into the Intermediate and Final Design phases. A statement establishing the length of the contract shall also be specified in the proposal.
- A.3. In addition to the material specified above, the Consultant Total Price Summary shall be completed and attached to the proposal. A copy of the Consultant Total Price Summary along with instructions for completing this form is attached to this Engineering Proposal Document.
- A.4. Proposal shall include "Sheet Summary" listing the estimated number and type of plan sheets required.
- A.5. Members of staff who will be assigned to this project and their job classification. Personnel substitutions of key personnel will not be made without prior written approval of the County.
- A.6. Qualifications of any engineering firm that will perform work on the project on a subcontract basis, i.e., surveying, geotechnical, etc. Fairfax County approval of all subcontractors is required, along with the scope of work to be performed on this project. The written subcontract arrangement, a copy of which shall be included in the cost proposal, shall include a statement that the engineering firm or subconsultant agrees to and will comply with the provisions contained in paragraph 35, General Conditions and Instructions to Bidders Subletting of Contract or Assignment of Contract Funds.
- A.7. A description of your proposed approach and methods of operation for accomplishing this work.
- A.8. Include a statement that all work on the project shall be performed in accordance with the provisions in this document unless otherwise noted.
- A.9. Include for the Engineer and all sub-consultants a list of primary and secondary personnel that can be contacted, if necessary, after normal business hours to address possible emergency situations that could occur on the project. The contact information should include telephone numbers (normal telephones and cell phones), pagers, etc.
- A.10. Please include the following signature block on the last page of the proposal following your signature and a description of the fee proposal summary, unless otherwise directed by the County.

APPROVED:

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Contracting Officer, Title  
Fairfax County Department of Transportation

---

Date

## CONTRACT COMPENSATION PROCEDURES

*For Task Orders under a Basic Ordering Agreement, the Contracting Officer shall be determined per the delegation matrix below or as coordinated with the County PM.*

|                            |  |
|----------------------------|--|
| <i>Fee &lt; 50k</i>        | <i>Section Chiefs</i>                      |
| <i>50K ≥ Fee &lt; 100k</i> | <i>Division Chief</i>                      |
| <i>Fee ≥ 100K</i>          | <i>DOT Director or delegated authority</i> |

A.11. Provide a certified accounting and justification of all overhead rates. This may be in the form of a certified audit by a CPA or an audit by a Federal or State agency.

A.12. Profit is to be clearly stated by the consultant on the proposal.

A.13. Unless otherwise noted, the original and three (3) copies of the proposal shall be submitted to Fairfax County Department of Transportation. Original signatures must appear on all copies of the proposal submitted.

B. **General:** Compensation for task order contracts will be quantified and negotiated in terms of component costs and documented on the attached Consultant Total Price Summary sheet (Exhibit A). Compensation for Design contracts may be negotiated and computed on a Lump Sum, Cost-Plus-Fixed-Fee, or Fixed Billable Rate Not-to-Exceed basis. The preferred method is Lump Sum. In some cases, multiple methods may be utilized to cover work under a specific project or a specific task order under a Basic Ordering Agreement contract. In some instances, it may be difficult to estimate the amount of effort needed to complete specific or unique tasks or even if a specific task will be necessary or required. In these instances, it is recommended that known quantifiable basic services be negotiated on a lump sum basis and indeterminate or unique tasks be negotiated on a lump sum per each or fixed-billable rate not-to-exceed basis as deemed appropriate by the FCDOT Project Manager (See Allowances, paragraph B.4.). The Contracting Officer must approve in writing the use of any Cost-Plus-Fixed-Fee contract prior to the start of negotiations. The use of Fixed Billable Rate Not-to-Exceed should be generally limited to portions of work within a Lump Sum contract that are difficult to define or scope at the time of negotiations.

C. A Summary of Negotiations prepared by Department of Transportation (FCDOT) Project Manager will accompany this form. The following procedures describe individual component costs and how each is to be handled and documented by the contract negotiator:

### 1. Direct Labor - Block 1

#### a. Notice of Labor Classification Schedule/Certified Wage Rates

After A/E selection, but prior to the start of negotiations, the A/E and its subconsultants must provide a Notice of Labor Classification Schedule showing their labor classifications and the average hourly rates which may be paid for each classification or specialty area expected to work on the project. Such notice will be provided and signed by an officer of the prime A/E and each subconsultant (Exhibit B) having contract signature authority. Typically, this schedule will not disclose employee names with the exception of key project staff (project principal, project manager, specialized technical experts, etc.). Average hourly wage rates may be used for broad labor categories (general engineer, technicians, etc.) however, actual wage rates should be used to the extent practicable for key project specific staff. The prime and each subconsultant shall document all personnel by classification and/or specialty and shall not show the same personnel under multiple classifications and/or specialty areas unless otherwise approved by FCDOT.

## CONTRACT COMPENSATION PROCEDURES

- b. Direct Labor costs are defined as actual salaries and wages paid principals and employees for time directly chargeable to the project. Direct Labor costs do not include fringe benefits such as social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, sick leave, vacation, holiday pay, etc.
- c. Estimated person-hours by task and/or sub-task and for each classification and/or specialty will be negotiated based on the scope of work and clarifications to the scope of work which typically occur during the early part of negotiations. Highlights of this negotiation will be documented in the Summary of Negotiation as part of the Fee Evaluation Form or in a separate memorandum. The Summary of Negotiation should include the A/E's initial person-hours proposed along with any significant clarifications and/or modifications to the scope of work, and final number of person-hours per labor classification.
- d. Include in Block 1 the total estimated person hours, by classification/specialty area. In addition, estimated person hours by classification shall be provided on separate sheets detailing the effort required to complete individual tasks and/or sub-tasks required to complete the project in accordance with the scope of work.
- e. Escalation/Salary Increases:
  - 1) Basic Ordering Agreements (BOA)
    - a. Salary Escalation is typically not permitted on Task Order assignments under BOA contracts. All Task Orders negotiated and initiated during a given contract calendar year shall utilize the approved average salary rate(s) for each classification for the given contract calendar year for the duration of the Task Order. In cases where the task order will be executed over a multi-year duration, wage escalation may be considered if documented within the original task order proposal. Salary escalation may also be considered if a Task Order is formally amended a year or more after the original authorization, in which case Direct Labor costs shall be calculated using the average contract year wage rates per the most recent contract renewal. Any salary increases considered should be in keeping with industry averages and are subject to negotiation. Any salary escalation included must be documented in the Record of Negotiations.
    - b. Salary Escalation will be permitted under BOA's at each annual renewal. At each annual renewal, the prime and all subconsultants shall resubmit a certified Notice of Labor Classification Schedule as noted in paragraph B.1.a., above. The rate of salary escalation will be reviewed by the FCDOT Project Manager and is subject to negotiation. Annual renewal salary increases should be in keeping with industry averages, and are subject to negotiation. Any salary escalation included must be documented in the Record of Negotiations.

## CONTRACT COMPENSATION PROCEDURES

- 2) Standalone Projects
  - a. Total salary escalation, if allowed by FCDOT, shall be documented in Block 1.A. Yearly escalation rates for VDOT/Federally funded projects shall be computed utilizing VDOT approved yearly escalation rates at the time of contract negotiation. For VDOT or Federally funded projects (including Locally Administered Projects (LAP's)), the FCDOT Project Manager shall review any proposed escalation rates for conformance with current VDOT policy prior to beginning contract negotiations. The prime and each subconsultant shall provide a breakdown of estimated person hour utilization for each contract calendar year, by task and/or sub-task and by labor classification and provide supporting computations of the resulting direct labor escalation costs. Any salary escalation included must be documented in the Summary of Negotiations.

### Indirect Costs (Overhead) - Block 2

- a. After selection, but prior to the start of negotiations, the A/E and its subconsultants (required for all subcontracts greater than \$20,000 in value) shall provide an audit of their overhead expenses covering the most recent 12-month period and a resultant overhead rate. The FCDOT Project Manager should request overhead information from the A/E that was prepared and audited in accordance with Federal Acquisition Regulations (FAR Part 31), if available. Ideally, this audit will have been prepared by a federal, state, or local government agency. Acceptability of this overhead rate will be documented in the Summary of Negotiations. FCDOT will accept the latest VDOT approved audited overhead rate letter as documentation to satisfy this requirement. In the absence of such an audit, the A/E and its subconsultants or their Certified Public Accountant (CPA) firm must prepare and submit "provisional" overhead expenses covering the last 12 month business year. A non-binding overhead rate will be derived by the A/E or the CPA as a ratio of overhead expenses to direct labor. The provisional overhead rate and the overhead expenses upon which the rate is developed will be prepared in accordance with generally accepted accounting principles and practices. An officer of the prime A/E firm and each subconsultant preparing such data will certify that the overhead information is complete, current, and accurate as of the date submitted. Overhead data and rates prepared by a CPA will be supported by a standard CPA certification. The contract negotiator will advise the A/E that the provisional overhead rate is subject to County audit and adjustment and that this stipulation is a part of the contract. If the certified overhead expenses are determined by the County not to have been complete, current, and accurate as of the date certified, then the A/E is liable for recoupment by the County up to three years after completion of the design contract. When contracts and/or task orders are expected to exceed \$100,000 in value, the contract negotiator should transmit the A/E's overhead data to Office of Internal Audit for review, especially in cases where a non-audited rate has been submitted. That office will validate allowable expenses via either audit or clarification of questionable expenses.

## CONTRACT COMPENSATION PROCEDURES

- b. Overhead expenses shall include fringe benefits, indirect salaries and wages, plus general and administrative expenses. Since overhead expenses are based on historical data, indirect salaries which are identified as an overhead expense must be scrutinized to assure no duplication with direct labor costs proposed by the A/E in the contract being negotiated. For example, if indirect salary costs are identified as overhead for the past 12 months business year and the A/E also proposes direct costs involving secretarial, administrative, principal time, etc., in the contract being negotiated, then a possible duplication exists. The negotiator must eliminate such duplication and document same in the Summary of Negotiation. Whenever possible, indirect salaries such as secretarial and administrative should be eliminated or minimized as an overhead expense and the projected cost of such labor should be identified in Block One as a Direct Labor Cost.
- c. Overhead expenses shall not include the following disallowable costs: Bad debts, contingencies (unless actually expended during the past 12 months business year, and if so, the specific expenditure(s) must be identified), donations, entertainment, fines and penalties, interest expense, marketing and promotion, legislative lobbying costs, defense of fraud, alcoholic beverages, and dividend distribution to employees. However, bonuses are generally allowed (contact Internal Audit to verify the acceptability of specific bonuses). Indirect salaries must be salaries paid only to active employees and principals. During negotiations, the A/E will be advised of the above disallowables.
- d. For County/Locally Funded projects, including most task orders under BOA contracts, it should be noted that when the allowable overhead rate is so high that the compensation factor (multiplier) exceeds 3.00, such rate typically should not be utilized. For example, given an allowable overhead rate of 1.80 and a profit of 10%, yields a compensation factor of 3.08 as follows:

|              |   |
|--------------|---|
| Direct Labor | 1.00                                    |
| Overhead     | <u>+1.80</u>                            |
|              | 2.80                                    |
| Profit       | X <u>.10%</u>                           |
|              | .28                                     |
|              | <u>+2.80 (Direct Labor + Overhead)</u>  |
|              | 3.08 (Direct Labor + Overhead + Profit) |

In this example, the compensation factor is 3.08; overhead and/or profit can be negotiated at the discretion of the contract negotiator to reduce the compensation factor to 3.00. Based upon the above example and utilizing a 10% profit, the maximum allowable overhead rate would be 172.73%.

- e. For federally funded projects, the actual FAR audited overhead rate shall be utilized to compute the indirect costs even if the rate is in excess of 172.73%. However, if the overhead rate and profit is such that it results in an overall compensation factor in excess of 3.00, then the profit or fixed-fee portion of the contract shall be adjusted as noted paragraph 3.b.

## CONTRACT COMPENSATION PROCEDURES

- f. The estimated cost of overhead will be developed by multiplying the single overhead rate by the total estimated cost of Direct Labor in Block One. Acceptability of A/E's overhead rate and/or efforts expended by the contract negotiator and/or the County Auditor to validate the overhead rate will be documented in the Summary of Negotiations.

### 2. Profit/Fixed-Fee - Block 3

- a. The profit or Fixed-Fee for A/E contracts, including all subconsultants, shall be no more than 10% unless the consultant tasks are of unusual difficulty or have a high degree of risk. Profit above 10% requires approval by the Director of FCDOT or the Deputy Director of DPWES (Contracting Officer).
- b. On federally funded projects, including Locally Administered Projects (LAP's), the profit or fixed-fee portion of the contract shall be computed based upon a maximum overhead rate of 156%. This maximum rate may change over time but in no case shall exceed the rates established under VDOT approved contract compensation policies and procedures. During negotiations, the FCDOT/DPWES Project Manager should coordinate with VDOT staff to determine the allowable overhead rate to be utilized to calculate profit and/or fixed-fee.
- c. All provisions related to Profit/Fixed-Fee computation shall also apply to all subconsultant contracts.

### 3. Allowances – Block 4

- a. When it is difficult to estimate the amount of effort required to complete a specific task or sub-task, or to determine if a specific task will be required, it is advisable to establish an estimated cost to complete the task separate from the basic services. The costs associated with these tasks are deemed Allowances and shall only be utilized upon written authorization of the DPWES/FCDOT Project Manager. Fee computations for Allowances can be negotiated on a Lump Sum, Cost-Plus-Fixed-Fee and/or Fixed Billable Rate Not-to-Exceed Basis. Some common examples of tasks that may be set up in this manner and the typical method of fee computation include:
  - i. Project Plats – Lump Sum per each plat
  - ii. Meetings - Lump Sum per each
  - iii. Citizen Information Meetings (CIM)/Public Hearings – Lump Sum per each, Fixed Billable Rate Not-to Exceed
  - iv. Retaining Wall Design (VDOT Standard or Specialized) – Lump Sum, Fixed Billable Rate Not-to Exceed
- b. The determination of which tasks shall be deemed Allowance items and the manner in which the costs are computed shall be agreed upon by the DPWES/FCDOT Project Manager and the consultant during negotiations and noted in the Summary of Negotiations. A separate Consultant Fee computation form and/or a detailed breakdown of the estimated person-hours by classification, indirect costs, and other direct costs shall be developed by the consultant for each task determined to be an Allowance.

## CONTRACT COMPENSATION PROCEDURES

- c. The total estimated cost for each Allowance item shall be identified on the Consultant Total Price Summary in Block 4. Supporting computations for each Allowance item shall be attached. Where reasonable and as agreed during negotiations, each Allowance item and associated costs may be rounded off.
4. Facilities Cost of Capital (FCC): Block 4a
- a. Fairfax County does not pay FCC on projects that are wholly funded by the County. FCC cost will not be allowed and said costs shall not be included in the Consultant Price Summary computations for these projects.
  - b. For LAP and other federally funded projects, FCC cost will be allowed in the Consultant Price Summary computation provided an approved FCC rate is included in the annual FAR audited overhead letter from VDOT. In the absence of a VDOT approved FCC rate, then FCC costs will not be allowed and costs shall not be included in the Consultant Price Summary computations.
5. Other Direct Costs - Block 5
- a. Travel: The costs of travel and transportation (County mileage rates) will be entered in Blocks 5a (1) and (2). These items will be broken down into separate costs and rates associated with each item (i.e., mileage rates, airfare cost, vehicle rental fees, lodging and/or meal rates, County per diem, etc.). Lodging and/or meal rates shall be consistent with the County's current Travel Policy in effect at the time of negotiations.
  - b. Equipment, Materials, & Supplies: Block 5b - Typically, these items involve reproduction costs, computer time-sharing, computer hardware and/or software if purchased specifically for the project, and any other items purchased exclusively to complete the project. If computer time (per hour cost) is included as a Direct Cost, the consultant shall have the means to document computer usage on a per project/task order basis and said usage costs shall not be included in the FAR audited overhead computation rate.
  - c. Subcontracts: Block 5c - All subcontracts will be identified in Block 5c to include the total cost for each. A separate Price Summary Sheet will be documented and attached for each subcontract with a cost greater than \$20,000.
  - d. Other: Block 5d - Any other direct costs not listed in Paragraphs 5a, b, or c shall be identified in this block.
6. Contingency: Block 6
- a. On all contracts and task orders, unless otherwise directed by Fairfax County, the consultant shall include a 10% contingency to cover any unanticipated increases or changes in scope of work that may arise as the project progresses. Contingency costs shall be computed by adding all Direct Costs (Labor), Indirect Costs (Overhead), and Allowances (if any), rounding the total to the nearest \$100 or as directed by Fairfax County (see paragraph 8), and then multiplying the sum by 10%. Other Direct Costs (printing, travel, etc.), FCC, and subconsultant costs shall NOT be included in the computation of Contingency costs.



## CONTRACT COMPENSATION PROCEDURES

- b. Subconsultants (fee greater than \$20,000) shall prepare their own Price Summary sheet and may include allowable Contingency in their fee computation. Subconsultant costs, including associated contingency, shall be shown on the Prime's Price Summary sheet in Block 5c.
  - c. Any contingency amounts shall only be released/spent/utilized upon written authorization of Fairfax County. Contingency funds may be released in whole or in part at various stages of project execution.
7. Total Price - Block 7 is the summation of Blocks 1, 2, 3, 4, 4a, 5a, b, c, d and 6.
- a. Rounding of Contract Values: It is the policy of Fairfax County to round off Contingency costs and all Total Contract prices. After summation of all costs in Blocks 1, 2, 3, 4, 4a, 5a, b, c, d, the consultant shall round this sub-total amount up to the nearest \$100 or as directed by the Fairfax County and then add the Contingency shown in Block 6. Enter the rounded value in Block 7a.
- D. The certification and audit clauses shown at Exhibit C must be incorporated into each contract. These clauses are in addition to the certified Notice of Labor Classification and overhead data which the A/E provides prior to the start of contract negotiations.
- E. Component costs for AIA contracts will be quantified and documented as described above on both the attached Price Summary Sheet and the Summary of Negotiation. Billable rates for use in AIA contracts may be derived from these component costs; however, the methodology used shall be documented in the Summary of Negotiation.
- F. The Summary of Negotiation will be signed by the contract negotiator and approved by the appropriate Section Chief, Division Chief, and Director.

**EXHIBIT A – CONSULTANT TOTAL PRICE SUMMARY**

| 1. DIRECT LABOR (Specify labor categories)                    | Estimated HOURS | HOURLY RATE | ESTIMATED COST | TOTALS |
|---|-----------------|-------------|----------------|--------|
|   |                 |             |                |        |
|   |                 |             |                |        |
|   |                 |             |                |        |
| DIRECT LABOR SUB-TOTAL  |                 |             |                | \$     |
| A. Escalation (provide supporting documentation/calculations) |                 |             |                | \$     |
| DIRECT LABOR TOTAL  |                 |             |                | \$     |
| 2. INDIRECT COSTS (SPECIFY INDIRECT COST POOLS)               | RATE            | X BASE<br>= | ESTIMATED COST |        |
|   | \$              |             | \$             |        |
|   |                 |             |                |        |
| DIRECT COST TOTAL   |                 |             |                | \$     |
| 3. PROFIT (BLOCKS 1 & 2) X %                                  |                 |             |                | \$     |
| 4. ALLOWANCES   |                 |             |                |        |
| a. Facilities Cost Of Capital (FCC)                           |                 |             |                |        |
| b.  |                 |             |                |        |
| 5. OTHER DIRECT COSTS   |                 |             |                |        |
| a. TRAVEL (check current County Travel Policy)                |                 |             | ESTIMATED COST |        |
| (1) TRANSPORTATION  |                 |             | \$             |        |
| (2) PER DIEM  |                 |             | \$             |        |
| TRAVEL SUBTOTAL   |                 |             | \$             |        |
| b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)        | QTY             | COST        | ESTIMATED COST |        |
|   |                 | \$          | \$             |        |
|   |                 |             |                |        |
|   |                 |             |                |        |
|   |                 |             |                |        |
| EQUIPMENT SUBTOTAL  |                 |             | \$             |        |

**EXHIBIT A – CONSULTANT TOTAL PRICE SUMMARY**

|                               |  |  |                   |    |
|-------------------------------|--|--|-------------------|----|
| c. SUBCONTRACTS               |  |  | ESTIMATED<br>COST |    |
|                               |  |  |                   |    |
|                               |  |  |                   |    |
| SUBCONTRACTS SUBTOTAL         |  |  |                   |    |
| d. OTHER (Specify categories) |  |  | ESTIMATED<br>COST |    |
|                               |  |  | \$                |    |
|                               |  |  |                   |    |
| OTHER SUBTOTALS               |  |  | \$                |    |
| OTHER DIRECT COSTS TOTAL      |  |  |                   | \$ |
| 6. CONTINGENCY                |  |  |                   |    |
| TOTAL PRICE                   |  |  |                   | \$ |

**EXHIBIT A-1 – SUBCONSULTANT TOTAL PRICE SUMMARY**

| 1. DIRECT LABOR (Specify labor categories)                    | Estimated HOURS | HOURLY RATE | ESTIMATED COST | TOTALS |
|---|-----------------|-------------|----------------|--------|
|   |                 |             |                |        |
|   |                 |             |                |        |
|   |                 |             |                |        |
| DIRECT LABOR SUB-TOTAL  |                 |             |                | \$     |
| A. Escalation (provide supporting documentation/calculations) |                 |             |                | \$     |
| DIRECT LABOR TOTAL  |                 |             |                | \$     |
| 2. INDIRECT COSTS (SPECIFY INDIRECT COST POOLS)               | RATE            | X BASE<br>= | ESTIMATED COST |        |
|   | \$              |             | \$             |        |
|   |                 |             |                |        |
| DIRECT COST TOTAL   |                 |             |                | \$     |
| 3. PROFIT (BLOCKS 1 & 2) X %                                  |                 |             |                | \$     |
| 4. ALLOWANCES   |                 |             |                |        |
| a. Facilities Cost Of Capital (FCC)                           |                 |             |                |        |
| b.  |                 |             |                |        |
| 5. OTHER DIRECT COSTS   |                 |             |                |        |
| a. TRAVEL (check current County Travel Policy)                |                 |             | ESTIMATED COST |        |
| (1) TRANSPORTATION  |                 |             | \$             |        |
| (2) PER DIEM  |                 |             | \$             |        |
| TRAVEL SUBTOTAL   |                 |             | \$             |        |
| b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)        | QTY             | COST        | ESTIMATED COST |        |
|   |                 | \$          | \$             |        |
|   |                 |             |                |        |
|   |                 |             |                |        |
|   |                 |             |                |        |
| EQUIPMENT SUBTOTAL  |                 |             | \$             |        |

**EXHIBIT A-1 – SUBCONSULTANT TOTAL PRICE SUMMARY**

|                               |  |  |                   |    |
|-------------------------------|--|--|-------------------|----|
|                               |  |  |                   |    |
| c. SUBCONTRACTS               |  |  | ESTIMATED<br>COST |    |
|                               |  |  |                   |    |
|                               |  |  |                   |    |
| SUBCONTRACTS SUBTOTAL         |  |  |                   |    |
| d. OTHER (Specify categories) |  |  | ESTIMATED<br>COST |    |
|                               |  |  | \$                |    |
|                               |  |  |                   |    |
| OTHER SUBTOTALS               |  |  | \$                |    |
| OTHER DIRECT COSTS TOTAL      |  |  |                   | \$ |
| 6. CONTINGENCY                |  |  |                   |    |
| TOTAL PRICE                   |  |  |                   | \$ |

**EXHIBIT B – NOTICE OF LABOR CLASSIFICATION SCHEDULE/CERTIFIED WAGE RATES  
(EXAMPLE)**

| <u>Classification</u> | <u>Average of Rates</u> |
|-----------------------|-------------------------|
| Principal             | _____                   |
| Senior Associate      | _____                   |
| Associate             | _____                   |
| Project Manager       | _____                   |
| Civil Engineer        | _____                   |
| Drafter               | _____                   |

I \_\_\_\_\_, Vice President of \_\_\_\_\_ certify that the above wage rates are complete, current, and accurate as of the date submitted.

Proposal Hourly Rates

|                  |       |
|------------------|-------|
| Principal        | _____ |
| Senior Associate | _____ |
| Associate        | _____ |
| Project Manager  | _____ |
| Civil Engineer   | _____ |
| Drafter          | _____ |

## **EXHIBIT C**

### **CERTIFICATION:**

The Architect/Engineer certifies that the cost and pricing data submitted to Fairfax County for the purpose of establishing equitable costs and fees under this contract are complete, current, and accurate as of the date of such submittal. If this cost and pricing data is determined by Fairfax County at some future date not to have been complete, current, and accurate as of the date above, the contract price may be subject to adjustment and/or recoupment as determined by Fairfax County.

### **AUDITING:**

In-progress and post-auditing may be performed by the appropriate agency of the County of its agent. Post-auditing, if any, shall be completed within three years of final payment.

**ATTACHMENT 1**  
**FIRM DATA SHEET**

Funding: \_\_\_\_ (S=State F=Federal)      Project No.: \_\_\_\_\_

Division: \_\_\_\_\_

Proposal Due Date: \_\_\_\_\_

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data may result in the Expression of Interest not being considered.

| Firm's Name, Address and DBE and/or SWAM Certification Number | Firm's DBE or SWaM Status * | Firm's Age | Firm's Annual Gross Receipts |
|---|-----------------------------|------------|------------------------------|
|   |                             |            |                              |
|   |                             |            |                              |
|   |                             |            |                              |
|   |                             |            |                              |
|   |                             |            |                              |
|   |                             |            |                              |

\* YD = DBE Firm Certified by DMBE

N = DBE or SWaM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE or SWaM Status

YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

DMBE is the Virginia Department of Minority Business Enterprise



**ATTACHMENT 2**

**CERTIFICATION REGARDING DEBARMENT**

**PRIMARY COVERED TRANSACTIONS**

(To be completed by a Prime Consultant)

Project: \_\_\_\_\_

- 1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a) Are not presently, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
  - b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and
  - d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the County of Fairfax, Virginia.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm

**ATTACHMENT 3**  
**CERTIFICATION REGARDING DEBARMENT**  
**LOWER TIER COVERED TRANSACTIONS**  
(To be completed by a Sub-consultant)

Project: \_\_\_\_\_

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the County of Fairfax, Virginia.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm

## GOOD FAITH EFFORT

**GOOD FAITH EFFORT**

(Federally funded project with DBE Goal; **until further notice, DBE goals will not be assigned to consultant service contracts**)

The Fairfax Department of Transportation, ("The Department") will accept what consultants submit in their Proposal regarding good faith efforts. If a firm that has submitted good faith effort documentation makes the short list, the procuring Division Administrator (cannot be delegated unless he/she will be out of the office for more than five work days) along with a representative of the Department will determine if the good faith effort is acceptable.

When there is a contract goal, a consultant must make good faith efforts to meet it. The consultant can do so either through obtaining enough DBE participation to meet the goal or documenting the good faith efforts it made to do so. These means of meeting contract goal requirements are fully equivalent. 49 CFR Part 26 (the Rule) explicitly provides that the Department must not disregard showings of good faith efforts, and it gives consultants the right to have the Department reconsider a decision that their good faith efforts were insufficient. The Department is prohibited from denying a contract to a consultant simply because it did not obtain enough DBE participation to meet the goal. The Department must seriously consider consultants' documentation of good faith efforts. To make certain that consultants' showings are taken seriously, the Rule requires the Department to offer administrative reconsideration to consultants whose good faith efforts showings are initially rejected.

The Rule also ensures flexibility for consultants by requiring that any contract goal be waived entirely for a prime consultant that demonstrates that it made good faith efforts but was still unable to meet the goal.

When the Department sets a contract goal, the basic obligation of consultants is to make good faith efforts to meet it. They can demonstrate these efforts in either of two ways, which are equally valid. First, they can meet the goal, by documenting that they have obtained commitments for enough DBE participation to meet the goal. Second, even though they have not met the goal, they can document that they have made good faith efforts to do so. A refusal by the Department to accept valid showings of good faith is not acceptable under the Rule.

The Rule makes clear that the Department is not to use a "conclusive presumption" approach, in which the apparent successful consultant is summarily found to have failed to make good faith efforts simply because another consultant was able to meet the goal. However, the performance of other consultants in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way. For example, when the apparent successful consultant fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant could have met the goal. It does not, by itself, prove that the apparent successful consultant did not make a good faith effort to get DBE participation, however. On the other hand, if the apparent successful consultant fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants, the Department may view this, in conjunction with other factors, as evidence of the apparent successful consultant having made good faith efforts.

The fact that some additional costs may be involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet a DBE contract goal, as long as such costs are reasonable.

## GOOD FAITH EFFORT

If the Department determines that the apparent successful consultant has failed to meet the requirements of a good faith effort, the Department must, before awarding the contract, provide the consultant an opportunity for administrative reconsideration. The Department intends that the process be informal and timely. The Department will ensure that the process is completed within a brief period (e.g., 5-10 days) to minimize any potential delay in procurements. The consultant will have an opportunity to meet with the reconsideration official, but a formal hearing is not required. As part of this reconsideration, the consultant must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Department's decision on reconsideration will be made by an official who did not take part in the original determination that the consultant failed to meet the goal or make adequate good faith efforts to do so. The consultant must have the opportunity to meet in person with the reconsideration official to discuss the issues of whether it met the goal or made adequate good faith efforts to do so. The Department will send the consultant a written decision on reconsideration, explaining the basis for finding that the consultant did or did not meet the goal or make adequate good faith efforts to do so. The Department's reconsideration personnel consists of the Commissioner's DBE Review Panel.

It is up to the Department to make a fair and reasonable judgment whether a consultant that did not meet the goal made adequate good faith efforts. It is important for the Department to consider the quality, quantity, and intensity of the different kinds of efforts that the consultant has made. The efforts employed by the consultant should be those that one could reasonably expect a consultant to take if the consultant were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. The Department's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

If DBE is prime, they will be allowed to count toward goals the work they commit to performing with their own forces, as well as the work that they commit to be performed by DBE subcontractors. DBE consultants on prime contracts will be expected to make the same outreach efforts as other consultants.

When a DBE participates in a contract, the Department will count only the value of the work actually performed by the DBE toward DBE goals. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function. If a DBE firm loses certification, its work no longer counts toward the DBE goal.

All consultants will be required to submit the following information to the Department with the Proposal:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The percentage amount of the participation of each DBE firm participating;
- Written documentation of the prime consultant's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts.

## GOOD FAITH EFFORT

The Department has prepared a list based on Federal Regulations of some of the kinds of efforts that consultants may make in obtaining DBE participation. It is not intended to be a mandatory checklist. The Department does not require that a consultant do any one, or particular combination, of the things on the list, nor is the list intended to be exclusive or exhaustive; it merely offers examples. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a consultant has made good faith efforts, it will usually be important for the Department to look not only at the different kinds of efforts that the Consultant has made, but also of the timeliness, quantity, and intensity of these efforts.

The Department offers the following examples of efforts that may be considered:

- A. Soliciting through all reasonable and available means (e.g., attendance at project showings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The consultant must solicit this interest within sufficient time to allow the DBEs to participate effectively. The consultant must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime consultant might otherwise prefer to perform these work items with its own forces.
- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract.
- D. (1) Negotiating in good faith with interested DBEs. It is the consultant's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
- D. (2) A consultant using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's costs, qualifications and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime consultant to perform the work of a contract with its own organization does not relieve the consultant of the responsibility to make good faith efforts. Prime consultants are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

GOOD FAITH EFFORT

- F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively using the services of available minority community organizations; minority contractors' groups; local, state, and Federal minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

**Attachment 5**

**APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING**

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE**

All firms located or operating in Fairfax County must obtain a Business, Professional and Occupational License (BPOL) as required by Chapter 4, Article 7, of the Code of the County of Fairfax, Virginia. In order for the Department of Tax Administration to determine your BPOL requirement prior to contract award, it is necessary for you to provide the following information:

- If you currently have a Fairfax County business license, please submit a copy with your proposal.
- Do you have an office in:      Virginia                      ☐ Yes                      ☐ No  
   Fairfax County                      ☐ Yes                      ☐ No
- Date business began/will begin work in Fairfax County

A detailed description of the business activity that will take place in Fairfax County. If business is located outside of Fairfax County, give the percentage of work actually to be done in the County

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Complete and return this form or a copy of your current Fairfax County Business License with your proposal.**



### **CERTIFICATION REGARDING DEBARMENT OR SUSPENSION**

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all offerors submitting a proposal in response to this Request for Proposal:

1. The Offeror certifies, to the best of its knowledge and belief, that neither the Offeror nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Offeror shall provide immediate written notice to the Fairfax County Purchasing Agent if, at any time prior to award, the Offeror learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Offeror rendered an erroneous certification, in addition to other remedies available to Fairfax County government, the Fairfax County Purchasing Agent may terminate the contract resulting from this solicitation for default.

**Printed Name of Representative:** \_\_\_\_\_

**Signature/Date:** \_\_\_\_\_/\_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**SSN or TIN No:** \_\_\_\_\_

**Certification Regarding Ethics in Public Contracting**

In submitting this bid or proposal, and signing below, Bidder/Offeror certifies the following in connection with a bid, proposal, or contract:

Check one:

☐

1. I have not given any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to any public employee or official have official responsibility for a procurement transaction.

☐

2. I have given a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to a public employee or official have official responsibility for a procurement transaction, but I received consideration in substantially equal or greater value in exchange.

If 2 is selected, please complete the following:

Recipient: \_\_\_\_\_

Date of Gift: \_\_\_\_\_

Description of the gift and its value:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of the consideration received in exchange and its value:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Printed Name of Bidder/Offeror Representative: \_\_\_\_\_

Signature/Date: \_\_\_\_\_ / \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

***This certification supplements but does not replace the requirements set forth in paragraph 64 (OFFICIALS NOT TO BENEFIT) of the General Conditions and Instructions to Bidders included in this solicitation.***



**COUNTY OF FAIRFAX**  
**DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT**  
**SUPPLIER DIVERSITY PROGRAM**  
12000 Government Center Parkway, Suite 427  
Fairfax, Virginia 22035-0013

**Fax: 703-324-3228**

**SUBCONTRACTOR (S) NOTIFICATION FORM**

Solicitation/Contract Number/Title: \_\_\_\_\_

Prime Contractors Name: \_\_\_\_\_

Prime Contractor's Classification: \_\_\_\_\_

In accordance with the Subcontracting paragraph of the Special Provisions for the above-cited solicitation, you are required to provide the County with names, addresses, anticipated dollar amount and small/minority classification of each first-tier subcontractor. Please complete this form and return it to this office with your submission.

**Please check here if you are not using a subcontractor: \_\_\_\_\_**

| SUBCONTRACTOR(S)<br>NAME | STREET ADDRESS | CITY | STATE | ZIP CODE | ANTICIPATED DOLLAR<br>AMOUNT | VENDOR<br>CLASSIFICATION |
|--------------------------|----------------|------|-------|----------|------------------------------|--------------------------|
|                          |                |      |       |          |                              |                          |
|                          |                |      |       |          |                              |                          |
|                          |                |      |       |          |                              |                          |
|                          |                |      |       |          |                              |                          |
|                          |                |      |       |          |                              |                          |

**Complete and return this form with your proposal.**